

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 CHARLES BECOAT,

4 Plaintiff

Case No. 3:18-cv-00210-RCJ-CLB

ORDER

5 v.

6 NEVADA DEPARTMENT OF
7 CORRECTIONS et al.,

8 Defendants

9
10 **I. DISCUSSION**

11 Plaintiff seeks an extension of 30 days to file his second amended complaint
12 because he has been in and out of hospitals.¹ (ECF No. 13). The Court grants the motion
13 for extension of time. Plaintiff shall file his second amended complaint on or before
14 Thursday, April 30, 2020. If Plaintiff fails to file a timely second amended complaint, the
15 Court will dismiss this action, with prejudice, for failure to state a claim. (See ECF No. 12
16 at 9).

17 Plaintiff also filed a motion for appointment of counsel. (ECF No. 14). A litigant
18 does not have a constitutional right to appointed counsel in 42 U.S.C. § 1983 civil rights
19 claims. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981). Pursuant to 28 U.S.C.
20 § 1915(e)(1), “[t]he court may request an attorney to represent any person unable to
21 afford counsel.” However, the court will appoint counsel for indigent civil litigants only in
22 “exceptional circumstances.” *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009) (§ 1983
23 action). “When determining whether ‘exceptional circumstances’ exist, a court must
24 consider ‘the likelihood of success on the merits as well as the ability of the petitioner to
25 articulate his claims *pro se* in light of the complexity of the legal issues involved.” *Id.*
26 “Neither of these considerations is dispositive and instead must be viewed together.” *Id.*

27
28 ¹ Although Plaintiff seeks an extension to file his “third” amended complaint, the
Court notes that it granted Plaintiff leave to file a “second” amended complaint. (ECF No.
12 at 9).

1 In the instant case, the Court does not find exceptional circumstances that warrant the
2 appointment of counsel. The Court denies the motion for appointment of counsel without
3 prejudice.

4 **II. CONCLUSION**


5 For the foregoing reasons, it is ordered that the motion for extension of time (ECF
6 No. 13) is granted.

7 It is further ordered that Plaintiff shall file his second amended complaint on or
8 before Thursday, April 30, 2020.

9 It is further ordered that, if Plaintiff fails to timely file his second amended complaint,
10 the Court will dismiss this action, with prejudice, for failure to state a claim.

11 It is further ordered that the motion for appointment of counsel (ECF No. 14) is
12 denied without prejudice.

13
14 DATED: March 24, 2020.

15 
16 UNITED STATES MAGISTRATE JUDGE
17
18
19
20
21
22
23
24
25
26
27
28